

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
New Life Evangelistic Center, Inc.)	File Number EB-02-KC-400
)	
Licensee of FM Broadcast Station KBIY in Van)	NAL/Acct. No.200232560014
Buren, Missouri)	
)	FRN 0003-2285-90
St. Louis, Missouri		

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: July 11, 2002

By the Enforcement Bureau, Kansas City Office:

I. INTRODUCTION

1. In this Notice *of Apparent Liability for Forfeiture*, we find that New Life Evangelistic Center, Inc., licensee of FM broadcast station KBIY in Van Buren, Missouri, willfully and repeatedly violated Sections 73.1125 and 73.3527 of the Commission's Rules ("Rules")¹ by operating KBIY without a main studio, by failing to make the public file available to the public during regular business hours and failing to retain all required materials in the public file. We conclude that New Life Evangelistic Center, Inc. is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II BACKGROUND

2. On May 30, 2002, an agent of the FCC Enforcement Bureau's Kansas City Field Office ("Kansas City Office") inspected FM radio station KBIY licensed to Van Buren, Missouri. The agent found no listing for the station in the local telephone directory. The agent went to the KBIY transmitter site and found a sign with a phone number provided "in case of emergency." The agent called this number and spoke with Mr. Ralph Case, manager of the station. Mr. Case stated the main studio for KBIY was in the process of being constructed at 128 Skyline Drive in Van Buren. The agent met Mr. Case at the studio under construction on Skyline Drive and saw that no studio was in operation and there was no capability to originate programming. Mr. Case stated that the station had been on the air since June 26, 2001, and had no main studio during that time. Mr. Case accompanied the agent back to the transmitter site to locate the public file. At the transmitter site, there was no public file available, nor was any staff present. Mr. Case then

¹ 47 C.F.R. §§ 73.1125 and 73.3527.

accompanied the agent to the “Free Store” in Van Buren, Missouri, a facility operated by New Life Evangelistic Center. The agent and Mr. Case arrived at the “Free Store” during the early afternoon and found the facility closed. The store had no studio or any capability to originate programming for station KBIY. Mr. Case did locate the public file at the facility. The public file was missing two required documents: the quarterly issues-programs list, and a copy of “The Public and Broadcasting.”

III DISCUSSION

3. Section 73.1125 of the Rules states that each broadcast station shall maintain a main studio at one of the following locations: (1) Within the station’s community of license; (2) At any location within the principal community contour of any AM, FM, or TV broadcast station licensed to the station’s community of license; or (3) Within twenty-five miles from the reference coordinates of the center of its community of license. As of May 31, 2002, New Life Evangelistic Center, Inc. failed to establish a main studio for station KBIY which had been on the air since June 26, 2001.

4. Section 73.3527(c) of the Rules requires the public file to be available for public inspection at any time during regular business hours. Inspection of the public file was made at the “Free Store,” operated by New Life Evangelistic Center, Inc. The Free Store was closed when the agent arrived in the early afternoon on May 31, 2002. Section 73.3527(e)(7) of the Rules requires at all times a current version of the manual entitled “The Public and Broadcasting” be located in the public file. Section 73.3527(e)(8) of the Rules requires a list of programs that have provided the station’s most significant treatment of community issues during the preceding three month period. The list shall include a brief narrative describing what issues were giving significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration and title of each program in which the issue was treated. The lists shall be retained in the public inspection file until final action has been taken on the station’s next renewal application. At the time of inspection on May 31, 2002, there were no issues-programs lists or a copy of “The Public and Broadcasting” in the public file.

5. Based on the evidence before us, we find that New Life Evangelistic Center, Inc. willfully² and repeatedly³ violated Section 73.1125 of the Rules by failing to maintain a main studio for KBIY and Section 73.3527 of the Rules by failing to make available the public file during regular business hours and failing to retain required materials in the public file. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount for violation of the main studio rule is \$7,000 and violations of the public file rules is \$10,000.⁴ Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), requires us to take into account “...the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.”⁵ The fact that New Life Evangelistic Center, Inc. maintained a partial

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that “[t]he term ‘willful,’ when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ The term “repeated,” when used with reference to the commission or omission of any act, “means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2).

⁴ 47 C.F.R. § 1.80(b)(4).

⁵ 47 U.S.C. § 503(b)(2)(D).

public file, albeit missing two required items and not accessible on the day of inspection, warrants a downward adjustment of the \$10,000 base forfeiture amount for that violation to \$3,000. Considering the entire record and applying the statutory factors listed above, this case warrants a \$10,000 forfeiture.

IV ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁷ New Life Evangelistic Center, Inc. is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for willfully and repeatedly violating Sections 73.1125 and 73.3527 of the Rules.

7. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this *Notice of Apparent Liability*, New Life Evangelistic Center, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment **MUST INCLUDE** the FCC Registration Number (FRN) and the NAL/Acct. No. referenced in the letterhead above.

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W. Washington, D.C. 20554, ATTN: Enforcement Bureau – Technical & Public Safety Division, and **MUST INCLUDE** the FRN and the NAL/Acct. No. referenced in the letterhead above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Requests for payment of the full amount of this *Notice of Apparent Liability* under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operation Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

12. **IT IS FURTHER ORDERED THAT** a copy of this *Notice of Apparent Liability* shall be sent by regular mail and Certified Mail Return Receipt Requested to New Life Evangelistic Center, Inc. at 1411 Locust Street, St. Louis, Missouri 63103.

FEDERAL COMMUNICATIONS COMMISSION

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁸ See 47 C.F.R. § 1.1914.

Robert C. McKinney
District Director
Kansas City Office